

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

MDL No. 1456  
Master File No. 1:01-CV-12257-PBS  
Sub-Category Case No. 1:08-CV-11200

THIS DOCUMENT RELATES TO:  
*United States ex rel. Linnette Sun and Greg  
Hamilton, Relators*  
*v.*  
*Baxter Healthcare Corporation*

Judge Patti B. Saris

DECEMBER 2011 STATUS REPORT

The undersigned counsel for hereby submit the attached Status Report for December 2011.

DATED this 6th day of DECEMBER 2011.

Respectfully submitted,

  
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**CERTIFICATE OF SERVICE**

I hereby certify that I, Shamir Patel, an attorney, caused a true and correct copy of the foregoing, DECEMBER 2011 STATUS REPORT, to be delivered to all counsel of record by electronic service via LexisNexis File & Serve, on DECEMBER 6, 2011, for posting and notification to all parties.

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**DECEMBER 2011 STATUS REPORT**

<b>PRIVATE CLASS CASE</b>	<i>United States ex rel. Linnette Sun and Greg Hamilton, Relators v. Baxter Hemoglobin Therapeutics and Baxter International Inc.</i>
<b>MDL DOCKET NUMBER</b>	Master File No. 1:01-CV-12257-PBS Sub-Category Case No. 1:08-CV-11200
<b>JURISDICTION</b>	D. Mass, pursuant to JPML order
<b>STATUS</b>	<ul style="list-style-type: none"> <li>• Transferred to MDL 1456 by JPML on July 14, 2008</li> <li>• Court Order entered on July 15, 2008 consolidating <i>Sun</i> case with the lead case No. 01-12257</li> <li>• Court received MDL record from the United States District Court for the District of Colorado on August 5, 2008</li> <li>• Status Conference held on June 22, 2009</li> <li>• Court entered Case Management Order with respect to briefing schedule on June 23, 2009; otherwise, all discovery is stayed</li> <li>• Defendant filed Motion for Leave to File Excess Pages on August 14, 2009 <ul style="list-style-type: none"> <li>• Relators filed Opposition to Defendant's Motion for Leave to File Excess Pages on August 20, 2009</li> <li>• Electronic order entered by the Court granting Defendant's Motion for Leave to File Excess Pages on August 21, 2009</li> </ul> </li> <li>• Defendant filed Motion to Dismiss Relators' Complaint (and accompanying Memorandum, Declaration, Exhibits, and Proposed Order) on August 14, 2009 <ul style="list-style-type: none"> <li>• Relators filed Opposition to Defendant's Motion to Dismiss Relators' Complaint (and accompanying Proposed Order) and Motion for Excess Pages on September 15, 2009</li> <li>• Defendant filed Reply in Further Support of Its Motion to Dismiss Relators' Complaint (and accompanying Declaration and Exhibits) on September 30, 2009</li> </ul> </li> <li>• Relators filed Motion to Lift Stay on Discovery (and accompanying Memorandum, Exhibits, and Proposed Order) on August 31, 2009</li> </ul>

	<ul style="list-style-type: none"> <li>• Defendant filed Opposition to Relators' Motion to Lift Stay on Discovery on September 10, 2009</li> <li>• Electronic order entered by the Court finding as moot on June 23, 2010</li> <li>• Defendant filed Motion For Leave to Conduct Limited Discovery and for an Extension of Time to Submit Reply Brief on September 23, 2009 <ul style="list-style-type: none"> <li>• Electronic order entered by the Court granting Defendant's Motion for Leave to Conduct Limited Discovery on October 15, 2009</li> </ul> </li> <li>• Defendant served Notices of Deposition and Requests for Documents on Relators on October 19, 2009 <ul style="list-style-type: none"> <li>• Relators produced documents and served Objections and Responses to Requests for Documents on November 19, 2009</li> <li>• Relators finalized document production for Linnette Sun on January 4, 2010. Production for Greg Hamilton is ongoing.</li> <li>• Defendant deposed Linnette Sun on January 19, 2010 and Greg Hamilton on January 21, 2010</li> </ul> </li> <li>• Defendant filed Supplemental Reply Brief in Further Support of its Motion to Dismiss Relators' Complaint (and accompanying Exhibits and Proposed Order) on January 27, 2010</li> <li>• Hearing on Motion to Dismiss held on February 9, 2010 at 3:30 p.m. The Court issued various rulings on the record, including dismissal of Counts II, III, and VII-XXI</li> <li>• Memorandum and Order issued by the Court denying Defendant's Motion to Dismiss on March 25, 2010. The Court dismissed without prejudice Counts I (as to all drugs other than Advate and Recombinate), II, III, and VII-XXI</li> <li>• Answer and Affirmative Defenses filed by Baxter Hemoglobin Therapeutics and Baxter International Inc. on April 19, 2010</li> <li>• Relators filed Stipulation re: Filing Non-Substantive Amendment to First Amended Complaint to Correct the Names of the Parties on June 17, 2010 <ul style="list-style-type: none"> <li>• Electronic endorsement entered by the Court approving stipulation on June 24, 2010</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"> <li>• Relators filed Second Amended Complaint on August 13, 2010</li> <li>• Answer and Affirmative Defenses filed by Baxter Healthcare Corporation on August 26, 2010</li> <li>• Relators filed Voluntary Dismissal of Baxter Hemoglobin Therapeutics and Baxter International Inc. on August 30, 2010 <ul style="list-style-type: none"> <li>• Court entered order of dismissal on September 29, 2010</li> </ul> </li> <li>• Defendant filed Joint Motion for Proposed Scheduling Order on August 31, 2010 <ul style="list-style-type: none"> <li>• Court entered electronic order granting motion and scheduling order on September 29, 2010</li> </ul> </li> <li>• Defendant filed Joint Motion for Entry of Scheduling Order on October 15, 2010 <ul style="list-style-type: none"> <li>• Court entered scheduling order on October 29, 2010</li> </ul> </li> <li>• Defendant filed Joint Motion for Order to Set Proposed Schedule on January 7, 2011 <ul style="list-style-type: none"> <li>• Court entered scheduling order on January 14, 2011</li> </ul> </li> <li>• Ven-A-Care and Baxter have made substantial progress and, if an agreement in principle is reached with Ven-A-Care by March 7, we would then turn our attention to resolving the Sun/Hamilton case</li> <li>• Defendant filed Joint Motion for Order to Set Proposed Schedule on March 14, 2011 <ul style="list-style-type: none"> <li>• Court entered scheduling order on March 24, 2011</li> </ul> </li> <li>• Relators filed Unopposed Motion for Entry of Scheduling Order on June 27, 2011 <ul style="list-style-type: none"> <li>• Court denied motion. Schedule entered . All fact discovery shall be completed by 12/1/2011. All expert discovery shall be completed by 3/1/2012. Any motion for summary judgment shall be filed by 4/15/2012.</li> </ul> </li> <li>• Relators and Defendant participated in a Rule 26(f) conference on July 20, 2011.</li> <li>• Defendant filed Partial Motion to Dismiss on July 29, 2011 <ul style="list-style-type: none"> <li>• Relators filed Opposition on August 12, 2011</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"><li>• Baxter filed Reply on August 22, 2011</li><li>• Hearing on motion set for November 8, 2011</li><li>• Hearing before the Court on November 8, 2011 on Partial Motion to Dismiss. Court ordered stay of all third party discovery related to the FCA claims.</li><li>• Ven-A-Care and Baxter filed a Joint Motion for Order of Dismissal With Prejudice on October 7, 2011<ul style="list-style-type: none"><li>• The Court ordered dismissal with prejudice against Baxter on October 17, 2011</li></ul></li><li>• Defendant filed Motion for Partial Summary Judgment on October 19, 2011<ul style="list-style-type: none"><li>• United States filed Statement Regarding the Consent of the U.S. to the Dismissal with Prejudice on November 14, 2011</li><li>• Relators filed Opposition on November 15, 2011</li><li>• Baxter filed Reply on November 28, 2011</li></ul></li><li>• Defendant filed an Emergency Motion to Stay Discovery Pending Ruling on Baxter's Partial Motion to Dismiss and Motion for Partial Summary Judgment on October 19, 2011</li><li>• Relators filed motion for Extension of Time to 3/30/12 and 6/29/12 and 8/12/12 to Complete Discovery Expert Discovery and Dispositive Motion Deadline on November 30, 2011</li></ul>
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